

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,) 4:11CR3031
)
)
v.)
)
)
TERRY L. SCHWARCK,) MEMORANDUM AND ORDER
)
)
Defendant.)
)

The defendant has filed an oral motion to cancel his change of plea hearing and to set this case for trial as soon as the court's schedule allows. Filing No. 49.

Accordingly,

IT IS ORDERED:

- 1) The defendant's change of plea hearing, previously set for November 4, 2011 at 10:30 a.m. is cancelled.
- 2) Trial is set to begin at 9:00 a.m. on January 30, 2012, for a duration of four trial days before district judge Richard G. Kopf in Courtroom #1, United States Courthouse and Federal Building, 100 Centennial Mall North, Lincoln, Nebraska. Jury selection will be at the commencement of trial
- 3) The court canceled the defendant's trial setting, and scheduled other cases for trial, based on defendant's prior statement that he wished to enter a plea. The defendant's change of mind has disrupted the normal scheduling practices of this court, the parties' ability to anticipate the need to prepare for trial, and their trial preparations. Therefore, under the circumstances presented, the additional time arising as a result of the granting the motion to set a trial date, the time between **November 3, 2011 and January 30, 2012**, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, for the reason that the parties require additional time to adequately prepare the case, taking into consideration due diligence of counsel, the novelty and complexity of the case, and the fact that the failure to grant

additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 3rd day of November, 2011.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge